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8 **BEFORE THE**  
**BOARD OF PHARMACY**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
10 **STATE OF CALIFORNIA**

11 In the Matter of the Statement of Issues  
Against:

Case No. 3622

12 **MOHAMMAD A. KHAN**  
13 **8361 Sheldon Avenue**  
14 **Live Oak, CA 95953**  
**Pharmacy Technician Applicant**

**STATEMENT OF ISSUES**

15 Respondent.

16  
17 Complainant alleges:

18 PARTIES

- 19 1. Virginia Herold (Complainant) brings this Statement of Issues solely in her official  
20 capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.  
21 2. On or about September 11, 2008, the Board of Pharmacy, Department of Consumer  
22 Affairs received an application for a Pharmacy Technician Registration from Mohammad A.  
23 Khan (Respondent). On or about August 14, 2008, Mohammad A. Kahn certified under penalty  
24 of perjury to the truthfulness of all statements, answers, and representations in the application.  
25 The Board denied the application on October 23, 2009.

JURISDICTION

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2       3.    This Statement of Issues is brought before the Board of Pharmacy (Board),  
3 Department of Consumer Affairs, under the authority of the following laws. All section  
4 references are to the Business and Professions Code unless otherwise indicated.

5       4.    Section 4300 of the Code states in pertinent part:

6               "(c) The board may refuse a license to any applicant guilty of unprofessional conduct.

7       The board may, in its sole discretion, issue a probationary license to any applicant for a  
8 license who is guilty of unprofessional conduct and who has met all other requirements for  
9 licensure. The board may issue the license subject to any terms or conditions not contrary  
10 to public policy, including, but not limited to, the following:

11              "(1) Medical or psychiatric evaluation.

12              "(2) Continuing medical or psychiatric treatment.

13              "(3) Restriction of type or circumstances of practice.

14              "(4) Continuing participation in a board-approved rehabilitation program.

15              "(5) Abstention from the use of alcohol or drugs.

16              "(6) Random fluid testing for alcohol or drugs.

17              "(7) Compliance with laws and regulations governing the practice of pharmacy.

18              "(d) The board may initiate disciplinary proceedings to revoke or suspend any  
19 probationary certificate of licensure for any violation of the terms and conditions of  
20 probation. Upon satisfactory completion of probation, the board shall convert the  
21 probationary certificate to a regular certificate, free of conditions.

22              "(e) The proceedings under this article shall be conducted in accordance with Chapter  
23 5 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code, and  
24 the board shall have all the powers granted therein. The action shall be final, except that  
25 the propriety of the action is subject to review by the superior court pursuant to Section  
26 1094.5 of the Code of Civil Procedure."  
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5. Section 4301 of the Code states:

"The board shall take action against any holder of a license who is guilty of unprofessional conduct or whose license has been procured by fraud or misrepresentation or issued by mistake. Unprofessional conduct shall include, but is not limited to, any of the following:

"(f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or corruption, whether the act is committed in the course of relations as a licensee or otherwise, and whether the act is a felony or misdemeanor or not.

"(g) Knowingly making or signing any certificate or other document that falsely represents the existence or nonexistence of a state of facts.

"(h) The administering to oneself, of any controlled substance, or the use of any dangerous drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to oneself, to a person holding a license under this chapter, or to any other person or to the public, or to the extent that the use impairs the ability of the person to conduct with safety to the public the practice authorized by the license.

"(k) The conviction of more than one misdemeanor or any felony involving the use, consumption, or self-administration of any dangerous drug or alcoholic beverage, or any combination of those substances.

"(l) The conviction of a crime substantially related to the qualifications, functions, and duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13 (commencing with Section 801) of Title 21 of the United States Code regulating controlled substances or of a violation of the statutes of this state regulating controlled substances or dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The board may inquire into the circumstances surrounding the commission of the crime, in order to fix the degree of discipline or, in the case of a conviction not involving controlled substances or dangerous drugs, to determine if the

1 conviction is of an offense substantially related to the qualifications, functions, and duties  
2 of a licensee under this chapter. A plea or verdict of guilty or a conviction following a plea  
3 of nolo contendere is deemed to be a conviction within the meaning of this provision. The  
4 board may take action when the time for appeal has elapsed, or the judgment of conviction  
5 has been affirmed on appeal or when an order granting probation is made suspending the  
6 imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal  
7 Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not  
8 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or  
9 indictment.  
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11 6. Section 480 of the Code provides:

12 (a) A board may deny a license regulated by this code on the grounds that the applicant has  
13 one of the following:

14 (1) Been convicted of a crime. A conviction within the meaning of this section means a plea  
15 or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a  
16 board is permitted to take following the establishment of a conviction may be taken when  
17 the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal,  
18 or when an order granting probation is made suspending the imposition of sentence,  
19 irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

20 (2) Done any act involving dishonesty, fraud, or deceit with the intent to substantially  
21 benefit himself or herself or another, or substantially injure another.  
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23 (3)(A) Done any act that if done by a licentiate of the business or profession in question,  
24 would be grounds for suspension or revocation of license.  
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1 (B) The board may deny a license pursuant to this subdivision only if the crime or act is  
2 substantially related to the qualifications, functions, or duties of the business or profession  
3 for which application is made.

4 (b) Notwithstanding any other provision of this code, no person shall be denied a license  
5 solely on the basis that he or she has been convicted of a felony if he or she has obtained a  
6 certificate of rehabilitation under Chapter 3.5 (commencing with Section 4852.01 of Title 6  
7 Part 3 of the Penal Code or that he or she has been convicted of a misdemeanor if he or she  
8 has met all applicable requirements of the criteria of rehabilitation developed by the board  
9 to evaluate the rehabilitation of a person when considering the denial of a license under  
10 subdivision(a) of Section 482..

12 (c) A board may deny a license regulated by this code on the ground that the applicant  
13 knowingly made a false statement of fact required to be revealed in the application for the  
14 license.

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16 FIRST CAUSE FOR DISCIPLINE  
(Conviction of Crimes)

17 7. Respondent's application is subject to denial under sections 480 and 4300( c) in  
18 conjunction with 4301 (f) , (h), (k), and (l) in that respondent was convicted of crimes  
19 substantially related to the practice of a pharmacy technician. The circumstances follow:

20 A. On or about December 3, 2008, in a case entitled *People v. Mohamed Assad Khan*,  
21 Superior Court of California, County of Sutter, Case No. CRM 08-2985, respondent pled guilty to  
22 a violation of Business and Professions Code section 25665 (minor in a public premise without  
23 lawful business). Said crime is substantially related to the practice of a pharmacy technician.

24 B. On or about December 3, 2008, in a case entitled *People v. Mohamed Assad Khan*,  
25 Superior Court of California, County of Sutter, Case No. CR-TR-08-2306, respondent pled no  
26 contest to a violation of Vehicle Code section 14601.2 (driving a motor vehicle when his driving  
27 privilege was suspended for driving under the influence of alcohol). Said crime is substantially  
28 related to the practice of a pharmacy technician.

1 C. On or about July 16, 2008, in a case entitled *People v. Mohamed Assad Khan*,  
2 Superior Court of California, County of Sutter, Case No. CRF-07-2729, respondent pled no  
3 contest to a violation of Vehicle Code section 23104(a) (reckless driving with injury). Said crime  
4 is substantially related to the practice of a pharmacy technician.

5 D. On or about March 26, 2008, in a case entitled *People v. Mohamed Assad Khan*,  
6 Superior Court of California, County of Sutter, Case No. CR-TR-08-0368, respondent pled no  
7 contest to a violation of Vehicle Code sections 23103, 23103.5 (reckless driving with alcohol).  
8 Said crime is substantially related to the practice of a pharmacy technician.

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10 SECOND CAUSE FOR DISCIPLINE  
(False or Misleading Statement)

11 8. Question Number 8 on the respondent's application for registration as a pharmacy  
12 technician states in pertinent part:

13 "Have you ever been convicted or pled no contest to a violation of any law of a foreign  
14 country, the United States or any state laws or local ordinances? You must include all  
15 misdemeanor and felony convictions, regardless of the age of the conviction, including those  
16 which have been set aside under Penal Code section 1203.4. Traffic Convictions of \$500 or less  
17 need not be reported."

18 9. Respondent's application is subject to denial under section 480( c ) and 4301 (f) and  
19 (g) in that he marked the box "no" in response to question number 8 on his application, when in  
20 truth and in fact he was convicted of the crimes set forth above in paragraphs 7 ( C ) and (D),  
21 above.

22 PRAYER

23 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
24 and that following the hearing, the Board of Pharmacy issue a decision:

25 1. Denying the application of Mohammad A. Khan for a Pharmacy Technician License;  
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Taking such other and further action as deemed necessary and proper.

DATED: 5/28/10

*Virginia Herold*  
VIRGINIA HEROLD  
Executive Officer  
Board of Pharmacy  
Department of Consumer Affairs  
State of California  
*Complainant*

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